

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

MATTHEW MCSHANE, :

Plaintiff : **CIVIL ACTION NO. 3:21-990**

v. : **(JUDGE MANNION)**

IRS TAXING BOARD, et al., :

Defendants :

ORDER

Pending before the court is the report of United States Magistrate Judge Susan E. Schwab¹, which recommends that the instant action be dismissed for the plaintiff's failure to either pay the proper filing fee or file an application to proceed *in forma pauperis*. (Doc. 12). The plaintiff has filed a document referencing the report and recommendation (Doc. 13). In the document, he acknowledges receiving Judge Schwab's order directing him to either pay the proper filing fee or submit the appropriate application. However, the plaintiff fails to provide a cogent reason for failing to follow the

¹ Plaintiff inappropriately refers to Judge Schwab as "Susan" in his filings. He is advised, in any future filings, to refer to Judge Schwab by her professional position as "Judge Schwab."

directives of the court or to raise any specific objection to the report and recommendation.

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b), advisory committee notes; see also Univac Dental Co. v. Dentsply Intern., Inc., 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); Local Rule 72.31.

Although acknowledging receipt of the court’s order directing him to either pay the filing fee or file the appropriate application, the plaintiff has failed to do either. Further, the plaintiff has provided no rational explanation for his failure to do so and has raised no valid objection to the report and recommendation. The court has considered the findings in Judge Schwab’s report and recommendation and finds no clear error of law. Moreover, the court agrees with the sound reasoning which has led Judge Schwab to the

conclusions in her report. As such, the report and recommendation will be adopted in its entirety as the opinion of the court.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

- (1) The report and recommendation of Judge Schwab (Doc. 12) is
ADOPTED IN ITS ENTIRETY AS THE RULING OF THE COURT.**
- (2) The instant action is DISMISSED WITHOUT PREJUDICE for the plaintiff's failure to pay the proper filing fee or submit the appropriate application to proceed *in forma pauperis*.**
- (3) The Clerk of Court is directed to CLOSE THIS CASE.**

s/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

DATE: November 23, 2021

21-990-01